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OFFICE OF PETITIONS

In re Application of :
Tanoi et al. :
Application No. 10/689,659 : DECISION ON
Filed: October 22, 2003 : PETITION
Atty Docket No. 000409-066 :

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181 FOR WITHDRAWAL OF HOLDING OF ABANDONMENT filed October 24, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed March 1, 2006. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective June 2, 2006. A courtesy Notice of Abandonment was mailed on September 14, 2006.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would

have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence. In addition, an irregularity in the mailing of the Office action is noted. The record of this application shows that the Office action mailed to the correspondence address of record was returned by the Postal Service.

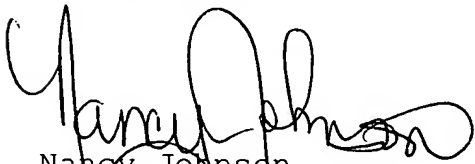
In view thereof, the notice of abandonment mailed September 14, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3634 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the final Office action mailed March 1, 2006 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read 'Nancy Johnson', with a large, stylized initial 'N'.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions